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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,958	04/07/2000	Robert D. Oexman	L&P / 1089A	9759

7590 05/23/2002

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EXAMINER

BAHTA, KIDEST

ART UNIT

PAPER NUMBER

2125

DATE MAILED: 05/23/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/544,958

Applicant(s)

OEXMAN ET AL.

Examiner

Kidest Bahta

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1-3, 9-11, 13 and 14 is/are rejected.
- 7) ☒ Claim(s) 4-8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 9-11 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Washburn et al. (U. S. Patent 5,815,865) in view of Meyer et al. (U. S. Patent 5,970,789).

Regarding claims 1-3, 9-11 and 13-14, Washburn discloses that method of determining the support characteristics of a test mattress relative to a human weight and size profile, which method comprises: measuring the weight distribution profiles of numerous different height, weight and shaped persons (column 3, lines 2-7); measuring and determining the optional deflection profile of those same persons for optimal support (column 3, lines 23-30); inputting the information of steps (a) and (b) into a computerized control (column 3, lines 57-67); locating a selected mattress in a test apparatus (column 3, lines 12-15); applying a weight profile load of a selected test profile person to pistons connected to independently movable pressure plates of the test apparatus, which pressure plates are positioned and sized on the mattress so as to mimic the shape of the selected person (column 6, lines 45-63); Furthermore, Washburn discloses inputting of the body type data into the processor includes: providing a stable support surface (Fig. 5); with the individual person reclining on the

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pad, generating the body type data characteristic of the individual person (column 3, lines 17-19); the stable support surface includes an airbed having at least one zone inflated to a standardized pressure (column 4, lines 15-27).

Washburn fails to disclose measuring the deflection of each pressure plate into the test mattress; and comparing the measured deflection characteristics of the test mattress to thin optional support defection for the test profile person a pressure sensor array on the top of the support surface, the array including a plurality of pressure sensors each adapted to measure pressure exerted against an area of the pad by a person reclining on the pad.

However, Meyer discloses measuring the deflection of each pressure plate into the test mattress (8, lines 48-55); and comparing the measured deflection characteristics of the test mattress to thin optional support defection for the test profile person (column 7, lines 21-52); a pressure sensor array on the top of the support surface (column 3, lines 23-35), the array including a plurality of pressure sensors each adapted to measure pressure exerted against an area of the pad by a person reclining on the pad (column 3, lines 22-26);

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Washburn with the teachings Meyer in order to provide a mattress assembly which has independent and interchangeable modules which is selected by an individual and assembled into a matters assembly according to the individual's preferences of feel and support.

Allowable Subject Matter

3. Claims 4-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claim 12 is allowed.

The following is an examiner's statement of reasons for allowance:

With respect to independent claim 12 the prior art of record does not suggest or disclose either alone or combination, the claimed the box spring coefficient indicative of a suitable box spring for the individual person in combination with other elements and features of claimed invention.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning communication or earlier communication from the examiner should be directed to Kidest Bahta, whose telephone number is (703) 308-6103. The examiner can normally be reached on M- F from 7:30 a.m. to 5:00 p.m. EST (every other Friday). If attempts to reach the examiner by phone fail, the examiner's supervisor, Leo Picard, can be reached (703) 308-0538. Additionally, the fax phone for Art Unit 2125 is (703) 308-6306 or 308-6296. Any inquiry of a general nature or relating

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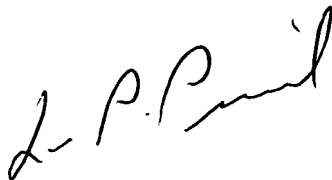
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to the status of this application should be directed to the group receptionist at (703) 305-9600.

Kidest Bahta

May 16, 2002



LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100